

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

Hakeem D. Smith,

Petitioner,

v.

**Case No. 3:06-cv-326
Judge Thomas M. Rose**

Warden, Lebanon Correctional Institution,

Defendant.

**DECISION AND ENTRY ADOPTING REPORT AND
RECOMMENDATIONS OF CHIEF UNITED STATES MAGISTRATE
JUDGE MERZ (DOC. 14), OVERRULING PETITIONER'S OBJECTIONS
TO THE MAGISTRATE'S PROPOSED FINDINGS AND
RECOMMENDATIONS, (DOC. 16), DENYING PETITION FOR WRIT OF
HABEAS CORPUS, (DOC. 1), AND TERMINATING THE INSTANT CASE.**

Pending before the Court are Petitioner Hakeem D. Smith's Objections to the Chief Magistrate's Proposed Report and Recommendations. (Doc. 16). The Report and Recommendations of United States Chief Magistrate Judge Michael R. Merz, (Doc. 14), recommends that the Court dismiss the petition (Doc. 1) with prejudice, asserting that the Petitioner has procedurally defaulted. The Chief Magistrate Judge has filed a supplemental report and recommendation, (Doc. 17), prompting petitioner to file objections to the supplemental report and recommendation. (Doc. 18).

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court finds that Plaintiff's

objections, (Docs. 16, 18), to the Magistrate Judge's Report and Recommendations, (Doc. 16, 18), are not well taken and they are hereby **OVERRULED**. Wherefore, the Court **DISMISSES** the Petition (Doc. 1) **WITH PREJUDICE**. The Clerk is **ORDERED** to terminate the instant case.

DONE and **ORDERED** this Thursday, July 19, 2007.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE